

REMARKS

This paper is in response to the Office Action mailed June 15, 2004. By this paper, claims 1, 5, 12, 16, 18, 19 24, 26 and 27 are amended, claims 15, 17, 23 and 25 are cancelled without prejudice, and claims 28 and 29 are added. Accordingly, claims 1-14, 16, 18-22, 24 and 26-29 are pending upon entry of is amendment.

Response to Rejection of Claims 1- 27

Claims 1- 27 in the application stand rejected as being unpatentable over Forsyth (U.S. Patent No. 4,593,855) in view of Blanchard (U.S. Patent 5,615,922). Claim 1 is directed to a tank configured to fit on the platform of an associated vehicle. As described, the associated vehicle has a platform having a side-to-side length L4. The platform also has first and second wheel wells positioned substantially opposite each other such that there is a length L2 between the wheel wells. The apparatus includes a tank configured so as to fit on the platform and can be moved from the front to the rear of the platform without interference from the wheel wells. More particularly, claim 1, as amended, is directed to an apparatus comprising, *inter alia*:

a tank having a bottom portion and a top portion, said bottom portion having a length L1 and said top portion having a length L3;

said bottom portion of said tank being adapted to be received by the platform;
and,

wherein said length L1 is less than the length L2 and said length L3 is less than the length L4 but greater than the length L2 thereby forming overhanging sections on opposite sides of the top portion that extend past the lower portion of the tank, the tank being positionable fore and aft on the platform by sliding the tank between the wheel wells.

Claim 1, as amended, is novel and patentable over the references of record, and particularly over Forsyth and Blanchard, because the cited art does not show or suggest a tank having a bottom portion and a top portion, said bottom portion having a length L1 and said top portion having a length L3, said bottom portion of said tank being adapted to be received by the

platform and wherein the length L1 is less than the length L2 and the length L3 is greater than the length L2 as required by claim 1.

Forsyth discloses a fire fighting apparatus which can be mounted onto a pick-up truck. The apparatus contains a supply tank and various components arranged in a generally rectangular configuration to minimize the space requirements of the apparatus. ('855 patent, Figure 3). As can be clearly seen, the supply tank disclosed by Forsyth does not have a bottom portion that is adapted to be received by the platform of the pick-up truck and fit between the wheel wells and an upper portion that is wider than the distance between the wheel wells. Thus, the reference fails entirely to teach or suggest a tank having a bottom portion having a length L1 and a top portion having a length L3, said bottom portion of said tank being adapted to be received by the platform and wherein the length L1 is less than the length L2 and the length L3 is greater than the length L2 as required by claim 1. As set forth in Applicant's specification, one advantage of the current invention a tank that can be easily moved past the wheel wells that also has a top portion that increases the volume of the tank, thus enabling the tank to store more chemicals. (See Specification, paragraph 0029 and 0032).

Blanchard discloses a vehicle, such as a pick-up truck, having a cargo bed or platform. The sidewalls of the vehicle have openings therein to provide access to the inside of the cargo bed. Compartment covers may be placed in the cargo bed to form storage compartments that are accessible from the exterior of the vehicle through the openings in the sidewalls. The Examiner has indicated that Figure 2 of Blanchard illustrates a tank having a bottom portion that is adapted to be received by the platform of the vehicle and fits between the wheel wells and having an upper portion that is wider than the distance between the wells. Applicant respectfully disagrees with the Examiner's characterization of the storage compartment illustrated by Blanchard. A necessary feature of the storage compartments of Blanchard is that they are accessible via openings in the sidewalls of the vehicle. Thus, the bottom portion of the storage compartment as shown in Figure 2 clearly extends the entire distance between the interior of the sidewalls of the vehicle. This can be more easily seen in the embodiment shown in Figure 1 of Blanchard. Figure 1 illustrates two smaller storage compartments positioned on the sides of the vehicle that are accessible via the openings in the sidewalls. The storage compartments are located in the area of the cargo bed directly forward of the wheel wells and clearly are positioned laterally in an

area of the cargo bed that is even with the wheel wells. The storage compartment of Figure 2 simply enlarges the storage compartments of Figure 1 to fill in the area in the middle of the cargo bed. Thus, the bottom portion of the storage compartment of Figure 2 necessarily extends the entire distance between the sidewalls and clearly has a dimension greater than the distance between the wheel wells.

Therefore, Blanchard actually teaches away from the invention of claim 1 which requires a tank having a bottom portion dimensioned to fit between the wheel wells. An important feature of the claimed invention is a tank having a slip-through design that is positionable fore and aft on the platform by sliding the tank between the wheel wells. This permits easier loading and unloading of the tank in the vehicle cargo platform because you do not have to lift the tank over the wheel wells to position the tank in the forward part of the vehicle. On the other hand, if the bottom portion of the container taught by Blanchard were not wider than the distance between the wheel wells, the compartment would not be accessible via the openings. Therefore, Blanchard does not teach the claimed limitation and there would be no motivation to modify the container taught by Blanchard to obtain Applicant's design. Accordingly, Blanchard cannot cure the deficiencies of Forsyth.

Accordingly, claim 1 is not made obvious by the cited references and favorable consideration of claim 1 is respectfully requested. Independent claim 5, 12, 19 and 27 contain limitations similar to those of claim 1 and are likewise patentable over the cited art. Claims 2-4, 6-11, 13-18 and 20-26, depending directly or indirectly from one of claims 1, 5, 12 or 19, are submitted as patentable over the cited references for at least the same reasons.

Additionally, independent claims 12 and 19 contain the following limitation:

a hose and reel operatively attached to said tank adapted to dispense the contents of said tank via said pump, said reel mounted at least partially on one of overhanging sections of the upper portion so that the hose is adjacent a first side of the truck and accessible from said first side.

Neither Forsyth nor Blanchard teach or suggest a hose and reel mounted at least partially on an overhanging section of an upper portion of the tank so that the hose is accessible from a first side of the vehicle. This enables the hose and reel to be easily accessible from the side of

the vehicle increasing the ease of operation and safety as the user can operate the sprayer from beside the vehicle without the need to climb upon the vehicle. For this additional


Conclusion

In view of the remarks made herein, Applicant submits that the claims presented herein are patentably distinguishable from the art applied and prompt allowance of the application is respectfully requested.

Should the Examiner determine that anything else is desirable to place this application in even better form for allowance, the Examiner is respectfully requested to contact the undersigned by telephone.

Respectfully Submitted,
WEGMAN, HESSLER & VANDERBURG

By: _____


Jeffrey S. Ellsworth
Reg. No. 51,650
Suite 200
6055 Rockside Woods Boulevard
Cleveland, Ohio 44131
216/642-3342

July 30, 2004